

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 27TH JUNE 2007 / 6TH ASHADHA 1929

Crl.MC.No. 2049 of 2007()

AGAINST THE ORDER IN LP.32/07 IN
CC.24/2004 of JUDL. MAGISTRATE OF FIRST CLASS COURT-I, PALAKKAD
CRIME NO.245/03 OF KUZHALMANDAM POLICE

PETITIONER: ACCUSED NO.2:

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1. MUJEEB RAHMAN, S/O.HYDERALI P.T.,
PUTHENKODETODAKKAD HOUSE, VETTATHOOR P.O.,
MALAPPURAM.
 2. HYDERALI P.T., PUTHENKODETODAKKAD HOUSE,
VETTATHOOR P.O., MALAPPURAM.

BY ADV. SRI.DILIP MOHAN

RESPONDENTS: STATE/COMPLAINANT:

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1. STATE OF KERALA REPRESENTED BY THE
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.
 2. STATION HOUSE OFFICER,
KUZHALMANDAM POLICE STATION,
PALAKKAD DISTRICT.

BY PUBLIC PROSECUTOR SRI.M.S.BREEZ

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 27/06/2007 ALONG WITH CRL.MC NO.2050/2007.
THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J.

Crl.M.C.Nos.2049 & 2050 of 2007

Dated this the 27th day of June 2007

O R D E R

The petitioners in Crl.M.C.No.2049 of 2007, two in number, face indictment in a prosecution under Section 420 I.P.C. Cognizance was taken on the basis of the final report submitted by the police. As the petitioners were not available for trial, the case against him has been transferred to the list of long pending cases. The petitioner in Crl.M.C.No.2050/07 i.e. the second petitioner in Crl.M.C.No.2049/2007 faces indictment in a separate prosecution under Section 138 of the Negotiable Instruments Act. In both these proceedings, as the petitioners had not appeared before the learned Magistrate, warrants of arrest issued by the learned Magistrate are chasing the petitioners. According to the petitioners, their absence earlier was not wilful. They are prepared to surrender before the learned Magistrate. They, therefore, pray that directions under Sections 438 or 482 Cr.P.C. may be issued to the learned Magistrate to release them on bail when they appear and apply for bail.

2. It is for the petitioners to appear before the learned Magistrate and explain to the learned Magistrate, the

circumstances under which they could not earlier appear before the learned Magistrate.

3. I find absolutely no reason to assume that the learned Magistrate would not consider the application for bail to be filed by the petitioner on merits, in accordance with law and expeditiously. Every court must do the same. No special or specific directions appear to be necessary. Sufficient general directions have been issued in Alice George vs. Deputy Superintendent of Police [2003(1)KLT 339].

4. In the result, this Crl.M.C is dismissed but with the specific observation that if the petitioners surrender before the learned Magistrate and apply for bail, after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits, in accordance with law and expeditiously - on the date of surrender itself.

(R.BASANT, JUDGE)

jsr

R.BASANT, J.

CRL.M.CNo.

ORDER

21ST DAY OF MAY2007